



Disease Control and Prevention

Youth Electronic Cigarette, Marijuana and Other Drug Prevention

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As required by 26-7-10(4), the Youth Electronic Cigarette, Marijuana and Other Drug Prevention (YEMOP) Committee voted unanimously to recommend the legislature make the following changes in Tobacco and Law Enforcement Code. The Committee is directing the DOH to share this information with the Health and Human Services Committee for consideration in the upcoming Special Session.

(Agency Note: UDOH convened a stakeholder meeting with statewide Retail and Tobacco representatives. They expressed no opposition to the proposed changes but did state they would like to see an official draft of the language before giving an official position. Marc Watterson at mwaterson@utah.gov can provide specific details and draft language.)

Clarify Definitions of "Manufacturer Sealed", "Substance", "Product", and "Standards"

- Why this Matters
 - Without this change, Administrative Rules will apply unequally to pod and one-time use disposable systems. This means that none of the rules requirements, including the nicotine content limit, would apply to the one-time use disposable systems.
 - One-time use disposable systems are becoming increasingly popular with youth. If the intent for capping nicotine content is to protect youth, this change in statute is needs to changed immediately.
- History of "Prefilled" (SB 37: E-cig Tax)
 - This definition was created as a means of distinguishing all of the various e-cigarette products that would be subject to the new tax, as the tax applied to "substances"
 - There is a need to distinguish a "substance" and "product" to bring clarity to code.
- Legislative Intent: Parity
 - UDOH understands, and Rep. Paul Ray has confirmed, the intent was to distinguish these electronic cigarette products for tax purposes, not to separate them out for applicability of other laws
 - For example, HB 415 (2015) and HB 23 (2020) directed UDOH to create rules and requirements for electronic-cigarette products sold in the state, including labeling, nicotine content, packaging, and product quality.
 - The original bill in 2015 only applied to substances because it applied to the products that were on the market at the time – namely bottles of e-juice substances
 - However, in 2020, the most prevalent products on the market were not the mod systems that individuals added substances to, but manufacturer sealed products, that either come prefilled with a substance or were intended to be used with one-time use pods.
 - UDOH see this as simply clarifying legislative intent to make sure UtahCode and the Administrative Rule applies to these products equally.
- "Substance – Product" (26-57-102 & 103)
- "Standards to Requirements to Sell" (26-57-103)
 - This clarifies legislative intent that only items that meet the requirements in Administrative Rules (as directed by statute) are allowed to be sold in Utah.

Nicotine Products & Prohibitions on Underage Sales

- Why this Matters
 - Currently, and without this change to law, it would be legal for a retailer to sell “nicotine products” to an individual younger than 21. UDOH seeks this change in statute to meet the intent of the legislature and help ensure nicotine products are not getting into the hands of youth. Federal law prohibits the sale of these products to individuals younger than 21, but as the statute is currently written local health departments cannot enforce this without Utah Code prohibiting retailers from selling nicotine products to individuals younger than 21.
- History of “Nicotine product” (SB 37: E-cig Tax)
 - Legislative Intent: Parity
 - As noted earlier, SB 37 changed the definition of tobacco products to make sure the new e-cigarette tax applied to certain products. As part of this bill, it separated out “nicotine products” from “tobacco products.”
 - UDOH believes this was an unintentional omission by the drafting attorneys.
- Prohibition on Sales to Minors (76-10-114)
- Proof of Age and Updated Underage Sales Investigation (76-10-115)
 - HB 371 (2021; Waldrip and Stevenson) made some changes to how law enforcement work with underage individuals to conduct compliance checks.
 - The changes UDOH proposes is to bring parity to the process for alcohol, tobacco, and nicotine products.
 - Adds nicotine products (defined in 76-10-101) to prohibition that an individual cannot intentionally use a false ID to purchase
 - Also allows individuals younger than 21 involved in underage sale investigations to use a false ID (issued by DPS), consistent with recent changes in HB 371 (lines 2416-2426) for underage tobacco, vape, and nicotine product sale investigation/compliance checks.